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7 Attorney for Dustin McCaskill

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 DUSTIN MCCASKILL,

15 Defendant.
16

Case No. 2:15-cr-030-GMN-CWH

**MOTION TO ADVANCE RE-
SENTENCING HEARING DATE**

(expedited treatment requested)

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18 Dustin McCaskill, through his attorney of record, Margaret W. Lambrose,
19 Assistant Federal Public Defender, requests that this Court advance the re-
20 sentencing to a date and time that is as soon as practicable depending on this
21 Court's schedule. This request is necessary because the re-sentencing hearing is
22 currently scheduled for December 13, 2018 at 2:00 p.m. and Mr. McCaskill's 10-
23 month term of incarceration is set to expire on December 18, 2018.
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MEMORANDUM OF POINTS & AUTHORITIES

On April 3, 2018, this Court revoked Mr. McCaskill's term of supervised released. As a part of its findings, this Court determined that Mr. McCaskill committed an assault under NRS § 200.471. That determination increased Mr. McCaskill's sentencing guideline range from 3 – 9 months for a C violation to 4 – 10 months for a B violation. This Court ultimately sentenced Mr. McCaskill to 10 months of imprisonment – the high end of the Grade B violation range. Mr. McCaskill's 10-month term of imprisonment will expire on December 18, 2018.

Mr. McCaskill appealed this Court's finding that he committed a Grade B violation. On November 28, 2018, the Ninth Circuit issued an order vacating the sentence. In its order, the court found that the government failed to provide sufficient evidence that Mr. McCaskill committed assault as defined in NRS § 200.471. The court further found that Mr. McCaskill should have been sentenced under a 3–9 month guideline range and remanded the case for re-sentencing pursuant to that range.

As Mr. McCaskill has already served almost 10 months in custody, it is respectfully requested that this Court advance the re-sentencing to a date and time

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1 that is as soon as practicable depending on this Court's schedule.
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3 DATED this 4th day of December, 2018.
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5 RENE L. VALLADARES
6 Federal Public Defender

7 */s/ Margaret W. Lambrose*
8 By _____
9 MARGARET W. LAMBROSE
10 Assistant Federal Public Defender
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That on December 4, 2018, she served an electronic copy of the above and foregoing **MOTION TO ADVANCE RE-SENTENCING HEARING DATE (expedited treatment requested)** by electronic service (ECF) to the person named below:

/s/ Stephanie Young
Employee of the Federal Public
Defender

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,
4 Plaintiff,

5 v.

6 DUSTIN MCCASKILL,
7 Defendant.
8

Case No. 2:15-cr-030-GMN-CWH
ORDER

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10 IT IS THEREFORE ORDERED that the re-sentence hearing currently
11 scheduled for Thursday, December 13, 2018 at 2:00 p.m., be vacated and advanced
12 to Monday, December 10, 2018, at 10:30 a.m. in Courtroom 7D.

13 DATED this 6 day of December, 2018.

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16 UNITED STATES DISTRICT JUDGE
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